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NOTICE OF ALLOWANCE AND FEE(S) DUE

22850

7590

09/19/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

SAFAIPOUR, BOBBAK

ART UNIT

PAPER NUMBER

2618

DATE MAILED: 09/19/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,327

09/30/2003

Daisuke Kitazawa

243327US8

2260

TITLE OF INVENTION: TRANSMISSION POWER CONTROL METHOD, COMMUNICATION DEVICE, AND RADIO COMMUNICATION SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/19/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE** OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22850 7590 09/19/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
 1940 DUKE STREET
 ALEXANDRIA, VA 22314

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/673,327 09/30/2003 Daisuke Kitazawa 243327US8 2260

TITLE OF INVENTION: TRANSMISSION POWER CONTROL METHOD, COMMUNICATION DEVICE, AND RADIO COMMUNICATION SYSTEM

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$0	\$1740	12/19/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
SAFAIPOUR, BOBBAK	2618	455-522000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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10/673,327	09/30/2003	Daisuke Kitazawa	243327US8	2260
22850	7590	09/19/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			SAFAIPOUR, BOBBAK	
			ART UNIT	PAPER NUMBER

2618

DATE MAILED: 09/19/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 695 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 695 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/673,327

Examiner

BOBBAK SAFAIPOUR

Applicant(s)

KITAZAWA ET AL.

Art Unit

2618

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/18/2008.
2. ☒ The allowed claim(s) is/are 1-3,5 and 9-11.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 1 (Currently Amended): A transmission power control method in a radio communication system comprising a base station and mobile stations, comprising:

determining that a communication to be transmitted from the base station to the mobile station is either real-time traffic or non-real time traffic based on at least one of a transmission delay, maximum retransmission count and reception error rate corresponding to the communication;

determining a transmission power required for radio communication between the base station and the mobile stations;

setting a transmission power margin level added to the transmission power to a first value if the communication is real-time traffic and a second value if the communication is non-real time traffic, wherein the first value is greater than the second value; and

transmitting the communication from the base station to the mobile station based on the transmission power margin set in the setting.

Claim 3 (Currently Amended): A communication device, comprising:

means for determining that a communication to be transmitted between a base station to a mobile station is either real-time traffic or non-real time traffic based on at least one of a transmission delay, maximum retransmission count and reception error rate corresponding to the communication;

means for determining a transmission power required for radio communication between the base station and the mobile stations;

means for setting a transmission power margin level added to the transmission power to a first value if the communication is real-time traffic and a second value if the communication is non-real time traffic, wherein the first value is greater than the second value; and

means for transmitting the communication based on the transmission power margin set by the setting means.

Claim 10 (New): A base station, comprising:

a determining unit configured to determine that a communication to be transmitted from the base station to a mobile station is either real-time traffic or non-real time traffic based on at least one of a transmission delay, maximum retransmission count and reception error rate corresponding to the communication;

a transmission power determining unit configured to determine a transmission power required for radio communication between the base station and the mobile station;

setting unit configured to set a transmission power margin level added to the transmission power to a first value if the communication is real-time traffic and a second value if the communication is non-real time traffic, wherein the first value is greater than the second value;

and a transmitter transmitting the communication from the base station to the mobile station based on the transmission power margin set in the setting.

Reasons for Allowance

Claims 4 and 6-8 have been cancelled.

Claims 1-3, 5, and 9-11 have been allowed.

Consider **claim 1**, the best prior art of record found during the examination of the present application, **Koo et al. ("Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System")**, fails to specifically disclose, teach, or suggest setting a transmission power margin level added to the transmission power to a first value if the communication is real-time traffic and a second value if the communication is non-real time traffic, wherein the first value is greater than the second value; and transmitting the communication from the base station to the mobile station based on the transmission power margin set in the setting.

Consider **claim 2**, the best prior art of record found during the examination of the present application, **Koo et al. ("Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System")**, fails to specifically disclose, teach, or suggest setting a transmission power margin level added to the required transmission power so that the added transmission power margin level increases as the data retransmission count in an uplink or in a downlink increases.

Consider **claim 3**, the best prior art of record found during the examination of the present application, **Koo et al. ("Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System")**, fails to specifically disclose, teach, or suggest means for setting a transmission power margin level added to the transmission power to a first value if the communication is real-time traffic and a second value if the communication is non-real time traffic, wherein the first value is greater than the second value; and means for transmitting the communication based on the transmission power margin set by the setting means.

Consider **claim 5**, the best prior art of record found during the examination of the present application, **Koo et al. ("Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System")**, fails to specifically disclose, teach, or suggest margin setting means for setting a transmission power margin level added to the transmission power so as to increase the transmission power margin as said retransmission count increases; and transmission power determination means for determining a transmission power based on the set transmission power margin and said required transmission power.

Consider **claim 9**, the best prior art of record found during the examination of the present application, **Koo et al. ("Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System")**, fails to specifically disclose, teach, or suggest margin setting means for setting a transmission power margin level added to the transmission power so as to increase the transmission power margin as said retransmission count increases; and transmission power determination means for determining a transmission power based on the set

transmission power margin and said required transmission power.

Consider **claim 10**, the best prior art of record found during the examination of the present application, **Koo et al. (“Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System”)**, fails to specifically disclose, teach, or suggest setting unit configured to set a transmission power margin level added to the transmission power to a first value if the communication is real-time traffic and a second value if the communication is non-real time traffic, wherein the first value is greater than the second value; and a transmitter transmitting the communication from the base station to the mobile station based on the transmission power margin set in the setting.

Consider **claim 11**, the best prior art of record found during the examination of the present application, **Koo et al. (“Capacity-Optimized Power Allocation Scheme in an Integrated Voice and Data DS-CDMA System”)**, fails to specifically disclose, teach, or suggest a setting unit configured to set a transmission power margin level added to the required transmission power so that the added transmission power margin level increases as the data retransmission count in an uplink or in a downlink increases.

Conclusion

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bobbak Safaipoor whose telephone number is (571) 270-1092. The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Application/Control Number: 10/673,327

Page 8

Art Unit: 2618

Bobbak Safaipoor

B.S./bs

September 10, 2008

/Matthew D. Anderson/

Supervisory Patent Examiner, Art Unit 2618